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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 586

AERO MAYFLOWER TRANSIT COMPANY,
Appellant,

vs.

GEORGIA PUBLIC SERVICE COMMISSION ET AL.

APPEAL FROM THE SUPREME COURT OF THE STATE OF GEORGIA.

JURISDICTION OF THE SUPREME COURT TO REVIEW UPON APPEAL.

Complying with Rule 12 of the Revised Rules of the Supreme Court of the United States, appellant shows:

In this case there was drawn in question in the trial court and Supreme Court in the State of Georgia the validity of a statute of that State which statute seeks to regulate and tax the interstate business of appellant.

The validity of the State statute being questioned because it constituted a burden on interstate commerce in violation of the commerce clause of the Federal Constitution and a burden on interstate commerce; and

Because such statute further constituted a prejudice and discrimination against appellant to the preference and advantage of appellant's competitors thus denying appellant the equal protection of the laws, in violation of the Fourteenth Amendment to the Federal Constitution; and

The judgment of the trial court affirmed by the Supreme Court of Georgia was in favor of the validity of said statute.

Paragraph "A" of Section 237 of the Judicial Code, as amended (Title 28, Section 344, United States Code), gives jurisdiction to the Supreme Court of the United States on this appeal.

The statute of the State of Georgia, the validity of which is involved herein, is copied in the printed Georgia Laws, Extraordinary Session 1931, beginning at page 99, and a full copy of said statute is attached to the original petition filed in the trial court and marked Exhibit "A". A summary of the pertinent provisions of such statute is as follows:

The title of the Act states, among other things, that it is "An Act to provide the conditions and regulations under which motor carriers for hire are permitted to operate over the highways of this State."

Section 2 of that Act, copied at pages 100 to 102, defines the terms used therein, and, among other definitions, defines motor vehicles and excepts from such definitions: "Cars and trucks hauling people and farm products exclusively between points not having railroad facilities, and not passing through or beyond municipalities having railroad facilities, where not more than seven passengers and/or one and one-half tons of freight are transported."

Excepts and defines "agricultural products" to "include fruit, live stock, meats, fertilizer, wood, lumber, cotton, and naval stores, household goods and supplies transported to farms for farm purposes, and/or other usual farm and

dairy supplies, and including products of grove and/or orchard, and also poultry and eggs, and also fish and oysters."

Excepts therefrom "all country merchants in rural districts who handle poultry and farm products in pursuance to their own business, and not for hire, and timber and/or logs being hauled by the owner thereof, or his agents and/or employees between forest and mill or primary place of manufacturer."

Other sections following Section 2 state the powers of the Georgia Public Service Commission, among which are the right to issue certificates of public convenience and necessity, to prescribe the terms and conditions thereof, to suspend, revoke or change the same, to require that the holder thereof "shall give bond with adequate security" • • • "to secure the owner or person against loss or damage to such freight" for which the motor carrier may be legally liable, and for the "protection of the public against injuries proximately caused by the negligence of such motor carrier, its servants or agents."

The Act further gives the Commission power to fix, change and require the filing of contracts between carriers for hire and their patrons, prohibits discrimination in charges, regulates the issuance of free transportation, authorizes railroad companies to operate motor vehicles for hire, and in Section 18 of the Act requires all motor carriers for hire, within its provisions, to make "payment of a fee of $25.00 for each vehicle to the Comptroller General," such monies so paid shall be kept by the State Treasurer "in a separate fund to be known as the 'Motor Vehicle Fund,' " and, after paying "supervisory expenses," if there is any remaining the same shall be paid to the State Highway Department "for use in maintenance and repair of the highways, as in the discretion of the Highway Board may be directed."

Records are required to be kept of the regulated motor carriers, whose books are subject to inspection, and a violation of any provision of the law is made a punishable misdemeanor. Rebates are prohibited. Safety rules and hours of duty of drivers are prescribed. Foreign residents are required to appoint attorneys for service and conflicting laws are repealed.

The date of the judgment here sought to be reviewed is September 27, 1934, and the date of the application for appeal herein was presented for record November 5, 1934.

Cases showing that this case falls within the jurisdiction of this Court and that appeal lies, are numerous. A leading and controlling case is that of *Smith* v. *Cahoon*, 283 U. S. 553.

Appellant has served upon appellees within five days from the allowance thereof, a copy of the petition for and order allowing the appeal, together with a copy of the assignment of errors and of this statement, and this statement hereby directs the attention of appellees to Paragraph 3 of Rule 12 of the rules of this Court.

WHEREFORE, it is respectfully submitted that jurisdiction in this Court lies and that this appeal is the proper way of invoking the jurisdiction of this Court.

This November 5, 1934.

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